

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**KILEY ARNEZ CARTER
ESTATE,**

Plaintiff,

V.

**CARRINGTON MORTGAGE
SERVICES, LLC and
SOLOMON/BAGGETT, LLC,**

Defendants.

**CIVIL ACTION FILE NO.
1:17-cv-03005-RWS-AJB**

UNITED STATES MAGISTRATE JUDGE'S FINAL REPORT AND RECOMMENDATION

On August 9, 2017, Plaintiff, proceeding *pro se*, filed an application for leave to proceed *in forma pauperis*. [Docs. 1-1-5]. By order dated August 18, 2017, the Court denied Plaintiff's motion to proceed *in forma pauperis*, and Plaintiff was given until September 1, 2017, to pay the filing fee and appear by counsel. [Doc. 2]. Plaintiff also was advised that failure to comply with the order would result in a recommendation that the District Judge dismiss the case. [*Id.* at 4]. As of the date of this Report and Recommendation, no filing fees have been paid and counsel has not appeared on behalf of Plaintiff, an entity that cannot appear *pro se*. (*See* Dkt., *passim*).

A party must pay the filing fee or obtain permission to proceed *in forma pauperis* before the Clerk of the Court can file a civil action. See N.D. Ga. R. 3.2; 28 U.S.C. § 1914(a), (c) If the party does not pay the filing fee, the civil action is not filed, but is merely marked “received.” N.D. Ga. R. 3.2B.

Federal Rule of Civil Procedure 41(b) authorizes dismissal of a complaint for failure to prosecute or failure to comply with a court order or the federal rules. See Fed. R. Civ. P. 41(b); *Gratton v. Great American Communications*, 178 F.3d 1373, 1374-75 (11th Cir. 1999); *World Thrust Films, Inc. v. International Family Entertainment, Inc.*, 41 F.3d 1454, 1456 (11th Cir. 1995); *Kilgo v. Ricks*, 983 F.2d 189, 192 (11th Cir. 1993); *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985); see also LR 41.3(A)(2) (authorizing dismissal where, after notice, a plaintiff fails or refuses to obey a lawful order of the court). Plaintiff was advised in the earlier order that failure to comply with its terms would result in a recommendation to the District Judge that this action be dismissed. Plaintiff has failed to comply with the Court’s August 18, 2017 order, or sought leave to extend its obligations pursuant to the order.

Accordingly, the undersigned **RECOMMENDS** that the District Judge **DISMISS** Plaintiff’s complaint **WITHOUT PREJUDICE**.

The Clerk is **DIRECTED** to terminate the reference to the undersigned.

IT IS SO RECOMMENDED and DIRECTED, this the 19th day of October,
2017.



ALAN J. BAVERMAN
UNITED STATES MAGISTRATE JUDGE